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Attorneys for Defendants
CITY AND COUNTY OF SAN FRANCISCO;
WILLIAM HUGHEN; KEVIN BIRMINGHAM; NATALIA FOSSI
(ERRONEOUSLY SUED AS NATALIA KWAITKOWSKA);
MAURICIO HERNANDEZ; and JOE DUFFY

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

PATRICK GALLAGHER,

Plaintiff,

vs.

CITY AND COUNTY OF SAN
FRANCISCO, BERNARD CURRAN,
RODRIGO SANTOS, WILLIAM HUGHEN,
KEVIN BIRMINGHAM, NATALIA
KWAITKOWSKA, AND JOE DUFFY,

Defendant.

Case No. 23-cv-03579-SI (JCS)

**NOTICE – WARNING TO PLAINTIFF
PURSUANT TO *WYATT/RAND* (SUMMARY
JUDGMENT)**

Hearing Date: December 5, 2025
Time: 10:00 a.m.
Place: Videoconference
Trial Date: February 17, 2026

NOTICE – WARNING (SUMMARY JUDGMENT)

TO PRO SE PLAINTIFF PATRICK GALLAGHER:

This document is a warning notice. Plaintiff is advised to read the following warning, which is adapted from the model warning in *Rand v. Rowland*, 154 F.3d 952, 962–63 (9th Cir. 1998) (en banc), and is modified to give Plaintiff fair and contemporaneous notice of what is required of him to oppose dismissal, as required by *Wyatt v. Terhune*, 315 F.3d 1108, 1120 n.14 (9th Cir. 2003). Such a warning

1 may be provided by the Court pursuant to the Ninth Circuit’s suggestion in *Woods v. Carey*, 684 F.3d
2 934, 939–40 (9th Cir. 2012).

3 Accordingly, you are hereby notified that Defendants City and County of San Francisco,
4 William Huguen, Kevin Birmingham, Natalia Fossi, Mauricio Hernandez, and Joe Duffy (collectively
5 “Defendants”) are asking the Court to grant summary judgment and dismiss all your claims for the
6 following reasons: (a) you have no evidence and/or have failed to demonstrate there is a triable issue
7 of material fact to support your cause of action for retaliation in violation of the First Amendment
8 against any of the Defendants; (b) Defendants’ conduct is protected by qualified immunity; and (c)
9 there is no evidence supporting *Monell* liability against the City and County of San Francisco.

10 When defendants move for summary judgment, they are seeking to have your case dismissed.
11 A motion for summary judgment under Rule 56 of the Federal Rules of Civil Procedure will, if
12 granted, end your case.

13 Rule 56 tells you what you must do to oppose a motion for summary judgment. Generally,
14 summary judgment must be granted when there is no genuine issue of material fact—that is, if there is
15 no real dispute about any fact that would affect the result of your case, the party who asked for
16 summary judgment is entitled to judgment as a matter of law, which will end your case.

17 If the Court grants the motion, your case will end. You are further advised to examine the
18 Court’s Orders for the appropriate briefing deadlines.

19 You have the right to present any evidence to demonstrate the existence of a genuine issue of
20 material fact to support your claims. Such evidence may include: (1) declarations, which are
21 statements signed under penalty of perjury by you or others who have personal knowledge of relevant
22 matters; (2) authenticated documents – documents accompanied by a declaration showing where they
23 came from and why they are authentic, or other sworn papers such as answers to interrogatories or
24 depositions; and (3) statements in your complaint insofar as they were made under penalty of perjury
25 and they show that you have personal knowledge of the matters stated therein.

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1 If you do not submit evidence in opposition to Defendants' motion for summary judgment,
2 your case may be dismissed, and there will be no trial. The Court is authorized to resolve factual
3 disputes against any party based on the evidence submitted by the parties.
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5 Dated: November 7, 2025

6 DAVID CHIU
7 City Attorney
8 JENNIFER E. CHOI
9 Chief Trial Deputy
10 HUNTER W. SIMS III
11 Deputy City Attorney

12 By: /s/ Hunter W. Sims III
13 HUNTER W. SIMS III

14 Attorneys for Defendants
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